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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,215	07/11/2001	Sergio Diaz De Leon	PGI6044P0181US	9964

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
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CHICAGO, IL 60661

EXAMINER

BOYD, JENNIFER A

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/903,215

Applicant(s)

DE LEON ET AL.

Examiner

Jennifer A. Boyd

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 24-32 is/are pending in the application.
4a) Of the above claim(s) 1-11 and 25-30 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 12-21, 24, 31-32 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/18/06 5/22/06.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The Applicant's Amendments and Accompanying Remarks, filed July 19, 2006, have been entered and have been carefully considered. Claims 31 – 32 are added, claims 1 – 11 and 25 – 30 are withdrawn and claims 1 – 21 and 24 – 32 are pending. In view of Applicant's addition of claims 31 – 32, the Examiner has amended the previously applied rejection below. The invention is not found to be patentable for reasons herein below.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 12 – 21 and 24 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. (US 6,022,818) in view of Simon et al. (US 5,632,072). The details of the rejection can be found in paragraph 3 of the Office Action dated March 17, 2006. The rejections are maintained. New claims 31 and 32 are now rejected as being unpatentable over Welch et al. (US 6,022,818) in view of Simon et al. (US 5,632,072).

As to claims 31 and 32, Welch is directed to hydroentangled nonwoven composites (Title) useful as a fluid management component in personal care absorbent articles such as diapers, training pants, incontinence garments, feminine hygiene products, bandages, wipes and the like (column 1, lines 10 – 23).

Welchel fails to teach that the fabric has a network of liquid-accepting channels surrounding projections.

Simon is directed to a method for hydropatterning napped fabric (Title). Simon teaches that hydropatterning technique is used to emboss the screen pattern into the nap of napped fabric in order to produce an aesthetically pleasing surface texture and pattern (Abstract). The hydropatterning process employs one or more water curtains under pressure against a patterned screen (column 5, lines 25 – 35). Simon teaches that the process and apparatus can be used for composite fabrics and laminates including nonwoven and woven materials (column 5, lines 53 – 69). Simon teaches that the drum support has a three-dimensionally embossed or woven relief pattern of raised or embossed areas such as in the shape of domes and void areas (column 4, lines 50 – 65). Figures 6A – 6K and 7A – 7L show various embodiments which include a network of liquid-accepting channels surrounding the projections.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to create a hydropatterned fabric with raised projections surrounded by void areas as suggested by Simon in the composite of Welchel motivated by the desire to create a composite with an aesthetically pleasing three-dimensional surface texture and pattern.

Response to Arguments

4. Applicant's arguments filed July 19, 2006 have been fully considered but they are not persuasive.

Applicant argues that the focus of the present invention is on function, whereas the focus

of the art relied upon the Examiner is on aesthetically pleasing textures and patterns, as specifically asserted by the Examiner. It should be noted that it has been held that “the use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain.” *In re Heck*, 699 F.2d 1331, 1332 – 33, 216 USPQ 1039 (Fed. Cir. 1983). Additionally, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Applicant argues that Simon completely fails to disclose a method of using an image-transfer device to form a fabric having such structural features, including an array of projections in combination with a network of liquid-accepting channels, much less the advantageous functions and performance obtained therewith. As noted above, Simon does teach the limitations of Applicant’s new claims 31 – 32. Simon teaches that the drum support has a three-dimensionally embossed or woven relief pattern of raised or embossed areas such as in the shape of domes and void areas (column 4, lines 50 – 65). Figures 6A – 6K and 7A – 7L show various embodiments which include a network of liquid-accepting channels surrounding the projections. Applicant argues that the present application includes comparative experimental data demonstrating the surprisingly and unexpectedly improved functional and performance results obtained in nonwoven fabrics made with the method of the present claims. Applicant directs the Examiner to pages 17 – 22 and Tables 1 – 3. The Applicant has compared various embodiments of the disclosed invention to a disposable swimmer product. The details of the physical

characteristics of the disposable swimmer product is not discussed in the Specification and, therefore, it is unclear whether the Applicant can rely on the results of the disposable swimmer product to establish unexpected results. Please note that evidence of unexpected properties may be in the form of a direct or indirect comparison of the claimed invention *with the closest prior art* which is commensurate in scope with the claims. See *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980) and MPEP § 716.02(d) - § 716.02(e). The Examiner submits that unexpected results can be established by comparing the properties of the invention of Welchel with the properties of the claimed invention and showing evidence of unexpected results which are attributed to the method claimed by Applicant. Applicant's evidence is not persuasive.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jennifer Boyd
September 25, 2006

Ula C. Ruddock
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Primary Examiner
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